

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

House BILL NO. *542*

INTRODUCED BY *Perk*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE OUT-OF-COUNTY TUITION LAWS; ELIMINATING MANDATORY TUITION APPROVAL IF THE RESIDENT DISTRICT PROVIDES TRANSPORTATION BUT IS NOT IN THE SAME COUNTY AS THE DISTRICT OF CHOICE; ELIMINATING THE DEDUCTION OF OUT-OF-COUNTY TUITION FROM THE COUNTY EQUALIZATION ACCOUNT; AMENDING SECTIONS 20-5-321, 20-5-324, 20-9-212, AND 20-9-334, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-321, MCA, is amended to read:

"20-5-321. Attendance with mandatory approval -- tuition and transportation. (1) An out-of-district attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:

(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district and:

~~(i) the resident district does not provide transportation; or~~

~~(ii) the district of residence provides transportation and is not within the same county as the child's school district of choice;~~

(b) the child resides in a location where, ~~due to~~ because of road or geographic conditions, it is impractical to attend the school nearest the child's residence;

(c) the child is a member of a family that is required to send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided that the child resides more than 3 miles from an elementary school in the resident district or that the parent is required to move to the elementary district where the high school is located to enroll another child in high school;

(d) the child has been adjudicated by a court of competent jurisdiction to be an abused or neglected

1 child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in
2 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public
3 health and human services and, as a result of the placement, is required to attend school outside of the
4 child's district of residence; or

5 (e) the child is required to attend school outside of the district of residence as the result of a
6 placement by a state agency or parent in a group home licensed by the state or an order of a court of
7 competent jurisdiction.

8 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have
9 a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall
10 complete an out-of-district attendance agreement in consultation with an appropriate official of the district
11 that the child will attend.

12 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for
13 tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

14 (c) The trustees of the district of choice may waive any ~~or all~~ of the tuition rate, but any waiver
15 must be applied equally to all students.

16 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of
17 the district of choice shall approve the out-of-district attendance agreement and notify the county
18 superintendent of schools of the county of the child's residence of the approval of the agreement within
19 10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).

20 (4) Unless the child is a child with disabilities who resides in the district, the trustees of the district
21 where the school to be attended is located may disapprove an out-of-district attendance agreement
22 whenever they find that, ~~due to~~ because of insufficient room and overcrowding, the accreditation of the
23 school would be adversely affected by the acceptance of the child."
24

25 **Section 2.** Section 20-5-324, MCA, is amended to read:

26 **"20-5-324. Tuition report and payment provisions.** (1) At the close of the school term of each
27 school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

28 (a) the name and district of residence of each child who is attending a school of the district under
29 an approved mandatory out-of-district attendance agreement;

30 (b) the number of days of enrollment for each child reported under the provisions of subsection

1 (1)(a);

2 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
3 20-5-323, and the tuition cost for each reported child; and

4 (d) the names, districts of attendance, and amount of tuition to be paid by the district for resident
5 students attending public schools out of state.

6 (2) The county superintendent shall send, as soon as practicable, the reported information to the
7 county superintendent of the county in which a reported child resides.

8 (3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to
9 the superintendent of public instruction, who shall determine the total per-ANB entitlement for which the
10 district would be eligible if the student were enrolled in the resident district. The reimbursement amount
11 is the difference between the actual amount paid and the amount calculated in this subsection.

12 (4) Notwithstanding the requirements of subsection (5), tuition payment provisions for
13 out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7,
14 part 4.

15 (5) ~~Except as provided in subsection (6), when~~ When a child has approval to attend a school
16 outside the child's district of residence under the provisions of 20-5-320 or 20-5-321, the district of
17 residence shall finance the tuition amount from the district tuition fund and any transportation amount from
18 the transportation fund.

19 ~~(6) When a child has mandatory approval under the provisions of 20-5-321, the tuition and~~
20 ~~transportation obligation for an elementary school child attending a school outside of the child's county of~~
21 ~~residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for~~
22 ~~the child's county of residence or for a high school child attending a school outside the county of residence~~
23 ~~by the county basic tax for high school districts, as provided in 20-9-333, for the child's county of~~
24 ~~residence.~~

25 ~~(7)(6)~~ By December 31 of the school fiscal year, ~~the county superintendent or the trustees shall~~
26 pay at least one-half of any tuition and transportation obligation established under this section out of the
27 money realized to date from the ~~appropriate basic county tax account provided for in 20-9-334 or from the~~
28 district tuition or transportation fund. The remaining tuition and transportation obligation must be paid by
29 June 15 of the school fiscal year. The payments must be made to the county treasurer in each county with
30 a school district that is entitled to tuition and transportation. Except as provided in subsection ~~(9)~~ (8), the

1 county treasurer shall credit tuition receipts to the general fund of a school district entitled to a tuition
 2 payment. The tuition receipts must be used in accordance with the provisions of 20-9-141. The county
 3 treasurer shall credit transportation receipts to the transportation fund of a school district entitled to a
 4 transportation payment.

5 ~~(8)~~(7) The superintendent of public instruction shall reimburse the district of residence for the
 6 per-ANB entitlement determined in subsection (3).

7 ~~(9)~~(8) (a) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or
 8 20-5-323(3) for the current school fiscal year that exceed the tuition receipts of the prior year may be
 9 deposited in the district miscellaneous programs fund and must be used for that year in the manner
 10 provided for in 20-9-507 to support the costs of the program for which the tuition was received.

11 (b) Any other tuition receipts received for the current school fiscal year that exceed the tuition
 12 receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used
 13 for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must
 14 be credited to the district general fund budget."

15

16 **Section 3.** Section 20-9-212, MCA, is amended to read:

17 **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

18 (1) receive and hold all school money subject to apportionment and keep a separate accounting
 19 of its apportionment to the several districts that are entitled to a portion of the money according to the
 20 apportionments ordered by the county superintendent or by the superintendent of public instruction. A
 21 separate accounting must be maintained for each county fund supported by a countywide levy for a
 22 specific, authorized purpose, including:

- 23 (a) the basic county tax in support of the elementary BASE aid;
- 24 (b) the basic special tax for high schools in support of the high school BASE aid;
- 25 (c) the county tax in support of the transportation schedules;
- 26 (d) the county tax in support of the elementary and high school district retirement obligations; and
- 27 (e) any other county tax for schools, including the community colleges, that may be authorized by
 28 law and levied by the county commissioners.

29 (2) whenever requested, notify the county superintendent and the superintendent of public
 30 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection

- 1 (1) and the amount of any other school money subject to apportionment and apportion the county and other
2 school money to the districts in accordance with the apportionment ordered by the county superintendent
3 or the superintendent of public instruction;
- 4 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;
- 5 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
6 school money;
- 7 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
8 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
9 school taxes must be credited to the same fund and district for which the original taxes were levied.
- 10 (6) send all revenue received for a joint district, part of which is situated in the county, to the
11 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
12 every 3 months after that date until the end of the school fiscal year;
- 13 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
14 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;
- 15 (8) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
16 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of
17 registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.
- 18 (9) invest the money of any district as directed by the trustees of the district within 3 working days
19 of the direction;
- 20 (10) each month give to the trustees of each district an itemized report for each fund maintained
21 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types
22 of revenue received, and the cash balance;
- 23 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
24 program within a unit of the university system when levied by the board of county commissioners under
25 the provisions of 20-25-439;
- 26 (12) invest the money received from the basic county tax, the basic special tax, the county levy
27 in support of the elementary and high school district retirement obligations, and the county levy in support
28 of the transportation schedules within 3 working days of receipt. The money must be invested until the
29 working day before it is required to be distributed to school districts within the county or remitted to the
30 state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and

1 credited proportionately, in the funds established to account for the taxes received for the purposes
2 specified in subsections (1)(a) through (1)(d).

3 (13) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504,
4 all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all
5 interest earned ~~and excluding any amount required for high school out of county tuition under the~~
6 ~~provisions of 20-9-334~~, in repayment of the state advance for county equalization prescribed in 20-9-347.
7 Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."
8

9 **Section 4.** Section 20-9-334, MCA, is amended to read:

10 **"20-9-334. Apportionment of county equalization moneys ~~high school out of county tuition~~**
11 **~~obligations~~ money.** ~~(1)~~ The county superintendent shall calculate the apportionment of ~~revenues~~ revenue
12 deposited in the basic county tax account and the ~~revenues~~ revenue deposited in the basic special tax for
13 high schools account to the several districts of the county. The apportionments ~~shall be~~ are known as
14 "county equalization ~~moneys~~" money".

15 ~~(2) The county superintendent shall direct the county treasurer to deduct from the revenues~~
16 ~~available in the basic special tax for high schools account, prior to remittance of the funds to the state~~
17 ~~treasurer under the provisions of 15-1-504 and 20-9-212, the amount required for the month to pay the~~
18 ~~county's obligation for high school out of county tuition."~~

19
20 **NEW SECTION. Section 5. Coordination instruction.** If Senate Bill No. 70 is passed and approved
21 and if it includes a section that amends 20-9-334(1), then 20-9-334 is repealed.

22
23 **NEW SECTION. Section 6. Effective date -- applicability.** [This act] is effective on passage and
24 approval and applies to budgets for school fiscal years beginning on or after July 1, 1997.

25 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0542, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the out-of-county tuition laws; eliminating mandatory tuition approval if the resident district provides transportation but is not in the same county as the district of choice; eliminating the deduction of out-of-county tuition from the county equalization account.

ASSUMPTIONS:

1. In FY96, county superintendents deducted \$1,243,035 from the elementary and high school county equalization accounts to pay for out-of-district, out-of-county placements.
2. Under HB 542, schools would no longer be required to enroll students from another county under a mandatory attendance agreement. Nor would the state be obligated to pay tuition to educate students that attend school in another county via deductions to county equalization revenue.
3. In counties where students are sent across county lines to attend school, the cost of educating these students (over and above the direct state aid and GTB aid) will shift from a state obligation to a local or parental obligation. If the students' resident district provides transportation and the students attend the school in their resident district there will be no tuition payment but the district will have the additional cost of providing education to the students. If the district does not provide transportation the students will continue to attend the out-of-county district with their resident district responsible for paying the tuition through district tax levies. It will become a parental responsibility if the resident district provides transportation but the student attends out of county. The three counties that will be most heavily affected are Jefferson, McCone, and Carter.
4. HB 542 is effective on passage and approval. Tuition costs incurred in FY97 for students who attend school outside the county of residence will be shifted from the state to the sending district or parents in FY98.
5. In FY99 and beyond, fewer students will attend out of county because the requirement to enroll students from other counties is reduced. The cost of tuition will be paid by district taxpayers if the resident district enters into a discretionary tuition agreement with the receiving district or by parents of students if the parent enters into the discretionary tuition agreement.

FISCAL IMPACT:

Expenditures: No impact on state expenditures.

Revenues:

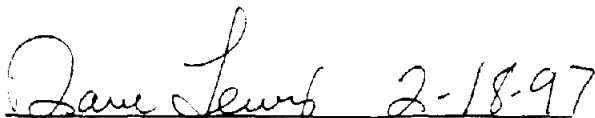
General Fund (01)	1,250,000	1,250,000
-------------------	-----------	-----------

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

School district tuition levies will increase by some amount less than \$1.25 million. If HB 542 is adopted, the cost of educating the affected students (over and above the direct state aid and GTB aid) will be borne by the district of residence or by parents.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

All school districts and taxpayers are treated consistently in that tuition is borne by the sending district. Special exceptions will not apply to students that attend school out-of-county.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


RAY PECK, PRIMARY SPONSOR DATE

1 HOUSE BILL NO. 542

2 INTRODUCED BY PECK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE OUT-OF-COUNTY TUITION LAWS;
5 ELIMINATING MANDATORY TUITION APPROVAL AND THE DEDUCTION OF OUT-OF-COUNTY TUITION
6 FROM THE COUNTY EQUALIZATION ACCOUNT IF THE RESIDENT DISTRICT PROVIDES
7 TRANSPORTATION BUT IS NOT IN THE SAME COUNTY AS THE DISTRICT OF CHOICE; ~~ELIMINATING THE~~
8 ~~DEDUCTION OF OUT-OF-COUNTY TUITION FROM THE COUNTY EQUALIZATION ACCOUNT;~~ AMENDING
9 SECTIONS 20-5-321, 20-5-324, 20-9-212, AND 20-9-334, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE AND AN APPLICABILITY DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 20-5-321, MCA, is amended to read:

15 **"20-5-321. Attendance with mandatory approval -- tuition and transportation.** (1) An out-of-district
16 attendance agreement that allows a child to enroll in and attend a school in a Montana school district that
17 is outside of the child's district of residence or in a public school district of a state or province that is
18 adjacent to the county of the child's residence is mandatory whenever:

19 (a) the child resides closer to the school that the child wishes to attend and more than 3 miles from
20 the school the child would attend in the resident district and:

21 (i) the resident district does not provide transportation; ~~or~~

22 (ii) ~~the district of residence provides transportation and is not within the same county as the child's~~
23 ~~school district of choice;~~

24 (b) the child resides in a location where, ~~due to~~ because of road or geographic conditions, it is
25 impractical to attend the school nearest the child's residence;

26 (c) the child is a member of a family that is required to send another child outside of the elementary
27 district to attend high school and the child of elementary age may more conveniently attend an elementary
28 school where the high school is located, provided that the child resides more than 3 miles from an
29 elementary school in the resident district or that the parent is required to move to the elementary district
30 where the high school is located to enroll another child in high school;

1 (d) the child has been adjudicated by a court of competent jurisdiction to be an abused or neglected
2 child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in
3 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public
4 health and human services and, as a result of the placement, is required to attend school outside of the
5 child's district of residence; or

6 (e) the child is required to attend school outside of the district of residence as the result of a
7 placement by a state agency or parent in a group home licensed by the state or an order of a court of
8 competent jurisdiction.

9 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have
10 a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall
11 complete an out-of-district attendance agreement in consultation with an appropriate official of the district
12 that the child will attend.

13 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for
14 tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

15 (c) The trustees of the district of choice may waive any ~~or all~~ of the tuition rate, but any waiver
16 must be applied equally to all students.

17 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of
18 the district of choice shall approve the out-of-district attendance agreement and notify the county
19 superintendent of schools of the county of the child's residence of the approval of the agreement within
20 10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).

21 (4) Unless the child is a child with disabilities who resides in the district, the trustees of the district
22 where the school to be attended is located may disapprove an out-of-district attendance agreement
23 whenever they find that, ~~due to~~ because of insufficient room and overcrowding, the accreditation of the
24 school would be adversely affected by the acceptance of the child."
25

26 **Section 2.** Section 20-5-324, MCA, is amended to read:

27 **"20-5-324. Tuition report and payment provisions.** (1) At the close of the school term of each
28 school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

29 (a) the name and district of residence of each child who is attending a school of the district under
30 an approved mandatory out-of-district attendance agreement;

1 (b) the number of days of enrollment for each child reported under the provisions of subsection
2 (1)(a);

3 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
4 20-5-323, and the tuition cost for each reported child; and

5 (d) the names, districts of attendance, and amount of tuition to be paid by the district for resident
6 students attending public schools out of state.

7 (2) The county superintendent shall send, as soon as practicable, the reported information to the
8 county superintendent of the county in which a reported child resides.

9 (3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to
10 the superintendent of public instruction, who shall determine the total per-ANB entitlement for which the
11 district would be eligible if the student were enrolled in the resident district. The reimbursement amount
12 is the difference between the actual amount paid and the amount calculated in this subsection.

13 (4) Notwithstanding the requirements of subsection (5), tuition payment provisions for
14 out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7,
15 part 4.

16 (5) ~~Except as provided in subsection (6), when~~ WHEN EXCEPT AS PROVIDED IN SUBSECTION (6),
17 WHEN a child has approval to attend a school outside the child's district of residence under the provisions
18 of ~~20-5-320 or 20-5-321~~, the district of residence shall finance the tuition amount from the district tuition
19 fund and any transportation amount from the transportation fund.

20 ~~(6) When a child has mandatory approval under the provisions of 20-5-321, the tuition and~~
21 ~~transportation obligation for an elementary school child attending a school outside of the child's county of~~
22 ~~residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for~~
23 ~~the child's county of residence or for a high school child attending a school outside the county of residence~~
24 ~~by the county basic tax for high school districts, as provided in 20-9-333, for the child's county of~~
25 ~~residence.~~

26 (6) WHEN A CHILD HAS MANDATORY APPROVAL UNDER THE PROVISIONS OF 20-5-321(1)(D)
27 AND (1)(E), THE TUITION AND TRANSPORTATION OBLIGATION FOR AN ELEMENTARY SCHOOL CHILD
28 ATTENDING A SCHOOL OUTSIDE OF THE CHILD'S DISTRICT OF RESIDENCE MUST BE FINANCED FROM
29 THE ELEMENTARY COUNTY EQUALIZATION ACCOUNT, AS PROVIDED IN 20-9-331, FOR THE CHILD'S
30 COUNTY OF RESIDENCE OR FOR A HIGH SCHOOL CHILD ATTENDING A SCHOOL OUTSIDE THE

1 DISTRICT OF RESIDENCE FROM THE HIGH SCHOOL EQUALIZATION ACCOUNT, AS PROVIDED IN
2 20-9-333, FOR THE CHILD'S COUNTY OF RESIDENCE.

3 ~~(7)(6)(7)~~ By December 31 of the school fiscal year, ~~the county superintendent or~~ THE COUNTY
4 SUPERINTENDENT OR the trustees shall pay at least one-half of any tuition and transportation obligation
5 established under this section out of the money realized to date from the ~~appropriate basic county tax~~
6 ~~account provided for in 20-9-334 or from the~~ APPROPRIATE ELEMENTARY OR HIGH SCHOOL COUNTY
7 EQUALIZATION ACCOUNT OR FROM THE district tuition or transportation fund. The remaining tuition and
8 transportation obligation must be paid by June 15 of the school fiscal year. The payments must be made
9 to the county treasurer in each county with a school district that is entitled to tuition and transportation.
10 Except as provided in subsection ~~(9)~~ ~~(8)~~ (9), the county treasurer shall credit tuition receipts to the general
11 fund of a school district entitled to a tuition payment. The tuition receipts must be used in accordance with
12 the provisions of 20-9-141. The county treasurer shall credit transportation receipts to the transportation
13 fund of a school district entitled to a transportation payment.

14 ~~(8)(7)(8)~~ The superintendent of public instruction shall reimburse the district of residence for the
15 per-ANB entitlement determined in subsection (3).

16 ~~(9)(8)(9)~~ (a) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or
17 20-5-323(3) for the current school fiscal year that exceed the tuition receipts of the prior year may be
18 deposited in the district miscellaneous programs fund and must be used for that year in the manner
19 provided for in 20-9-507 to support the costs of the program for which the tuition was received.

20 (b) Any other tuition receipts received for the current school fiscal year that exceed the tuition
21 receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used
22 for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must
23 be credited to the district general fund budget."

24
25 **Section 3.** Section 20-9-212, MCA, is amended to read:

26 **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

27 (1) receive and hold all school money subject to apportionment and keep a separate accounting
28 of its apportionment to the several districts that are entitled to a portion of the money according to the
29 apportionments ordered by the county superintendent or by the superintendent of public instruction. A
30 separate accounting must be maintained for each county fund supported by a countywide levy for a

1 specific, authorized purpose, including:

2 (a) the basic county tax in support of the elementary BASE aid;

3 (b) the basic special tax for high schools in support of the high school BASE aid;

4 (c) the county tax in support of the transportation schedules;

5 (d) the county tax in support of the elementary and high school district retirement obligations; and

6 (e) any other county tax for schools, including the community colleges, that may be authorized by
7 law and levied by the county commissioners.

8 (2) whenever requested, notify the county superintendent and the superintendent of public
9 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection
10 (1) and the amount of any other school money subject to apportionment and apportion the county and other
11 school money to the districts in accordance with the apportionment ordered by the county superintendent
12 or the superintendent of public instruction;

13 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

14 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
15 school money;

16 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
17 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
18 school taxes must be credited to the same fund and district for which the original taxes were levied.

19 (6) send all revenue received for a joint district, part of which is situated in the county, to the
20 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
21 every 3 months after that date until the end of the school fiscal year;

22 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
23 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

24 (8) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
25 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of
26 registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

27 (9) invest the money of any district as directed by the trustees of the district within 3 working days
28 of the direction;

29 (10) each month give to the trustees of each district an itemized report for each fund maintained
30 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types

1 of revenue received, and the cash balance;

2 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
3 program within a unit of the university system when levied by the board of county commissioners under
4 the provisions of 20-25-439;

5 (12) invest the money received from the basic county tax, the basic special tax, the county levy
6 in support of the elementary and high school district retirement obligations, and the county levy in support
7 of the transportation schedules within 3 working days of receipt. The money must be invested until the
8 working day before it is required to be distributed to school districts within the county or remitted to the
9 state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and
10 credited proportionately, in the funds established to account for the taxes received for the purposes
11 specified in subsections (1)(a) through (1)(d).

12 (13) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504,
13 all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all
14 interest earned ~~and excluding any amount required for high school out of county tuition under the~~
15 ~~provisions of 20-9-334~~ AND EXCLUDING ANY AMOUNT FOR TUITION UNDER THE PROVISIONS OF
16 20-5-324(6), in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds
17 in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."

18

19 **Section 4.** Section 20-9-334, MCA, is amended to read:

20 **"20-9-334. Apportionment of county equalization moneys—high school out of county tuition**
21 **obligations money -- TUITION OBLIGATIONS.** (1) The county superintendent shall calculate the
22 apportionment of ~~revenues~~ revenue deposited in the basic county tax account and the ~~revenues~~ revenue
23 deposited in the basic special tax for high schools account to the several districts of the county. The
24 apportionments ~~shall be~~ are known as "county equalization ~~moneys~~" money".

25 ~~(2) The county superintendent shall direct the county treasurer to deduct from the revenues~~
26 ~~available in the basic special tax for high schools account, prior to remittance of the funds to the state~~
27 ~~treasurer under the provisions of 15-1-504 and 20-9-212, the amount required for the month to pay the~~
28 ~~county's obligation for high school out of county tuition.~~

29 (2) THE COUNTY SUPERINTENDENT SHALL DIRECT THE COUNTY TREASURER TO DEDUCT FROM
30 THE REVENUE AVAILABLE IN THE APPROPRIATE ELEMENTARY AND HIGH SCHOOL EQUALIZATION

1 ACCOUNTS, PRIOR TO THE REMITTANCE OF THE FUNDS TO THE STATE TREASURER UNDER THE
2 PROVISIONS OF 15-1-504 AND 20-9-212, THE AMOUNT REQUIRED FOR THE MONTH TO PAY THE
3 COUNTY'S OBLIGATION FOR TUITION UNDER THE PROVISIONS OF 20-5-324(6)."

4
5 ~~NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 70 is passed and approved~~
6 ~~and if it includes a section that amends 20-9-334(1), then 20-9-334 is repealed.~~

7
8 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective on passage and
9 approval and applies to budgets for school fiscal years beginning on or after July 1, 1997.

10 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0542, second reading

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the out-of-county tuition laws; eliminating mandatory tuition approval and the deduction of out-of-county tuition from the county equalization account if the resident district provides transportation but is not in the same county as the district of choice.

ASSUMPTIONS:

1. In general, HB 542 eliminates the deduction of out of county tuition. However, as amended, HB 542 allows for the deduction of tuition from the county equalization account for students, placed in a group home or licensed youth care facility, who attend school outside of the district of residence.
2. In FY 96, county superintendents deducted \$1,243,035 from the elementary and high school county equalization accounts to pay for out-of-district, out-of-county placements. As amended, county superintendents will continue to deduct \$430,000 from the county equalization accounts for students placed in a group home or licensed youth care facility who attend school outside of the district of residence. The net savings to the state general fund is \$813,000.
3. Under HB 542, as amended, a school district would no longer be required to enroll students from another county under a mandatory attendance agreement unless the student is placed in a group home or licensed youth care facility. The state will be obligated to pay tuition to educate only those students placed out-of-district in a group home or licensed youth care facility.
3. In counties where students are sent across county lines to attend school, the cost of educating these students (over and above the direct state aid and GTB aid) will shift from a state obligation to a local obligation. The three counties that will be most heavily affected are Jefferson, McCone, and Carter.
4. HB 542 is effective on passage and approval. Tuition costs incurred in FY97 for students who attend school outside the county of residence will be shifted from the state to the sending district to be paid through a district tuition levy in FY98.
5. In FY 99 and beyond, fewer students will attend out of county because the requirement to enroll students from other counties is be reduced. The cost of tuition will be paid by district taxpayers if the resident district enters into a discretionary tuition agreement with the receiving district or by parents of students if the parent enters into the discretionary tuition agreement.

FISCAL IMPACT:

Revenues:

General Fund (01)	813,000	813,000
-------------------	---------	---------

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

School district tuition levies will increase by some amount less than \$813,000. If HB 542 is adopted, the cost of educating the affected students (over and above the direct state aid and GTB aid) will be borne by the district of residence or by parents.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

All school districts and taxpayers are treated consistently in that tuition is borne by the sending district. Special exceptions will not apply to students that attend school out of county.

Dave Lewis 2-25-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 RAY PECK, PRIMARY SPONSOR DATE

1 HOUSE BILL NO. 542

2 INTRODUCED BY PECK

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE OUT-OF-COUNTY TUITION LAWS;
5 ELIMINATING MANDATORY TUITION APPROVAL AND THE DEDUCTION OF OUT-OF-COUNTY TUITION
6 FROM THE COUNTY EQUALIZATION ACCOUNT IF THE RESIDENT DISTRICT PROVIDES
7 TRANSPORTATION BUT IS NOT IN THE SAME COUNTY AS THE DISTRICT OF CHOICE; ~~ELIMINATING THE~~
8 ~~DEDUCTION OF OUT OF COUNTY TUITION FROM THE COUNTY EQUALIZATION ACCOUNT~~; AMENDING
9 SECTIONS 20-5-321, 20-5-324, 20-9-212, AND 20-9-334, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE AND AN APPLICABILITY DATE."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

APPROVED BY COM ON EDUCATION
AND CULTURAL RESOURCES

HOUSE BILL NO. 542

INTRODUCED BY PECK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE OUT-OF-COUNTY TUITION LAWS; ELIMINATING MANDATORY TUITION APPROVAL AND THE DEDUCTION OF OUT-OF-COUNTY TUITION FROM THE COUNTY EQUALIZATION ACCOUNT IF THE RESIDENT DISTRICT PROVIDES TRANSPORTATION BUT IS NOT IN THE SAME COUNTY AS THE DISTRICT OF CHOICE; ~~ELIMINATING THE DEDUCTION OF OUT-OF-COUNTY TUITION FROM THE COUNTY EQUALIZATION ACCOUNT;~~ AMENDING SECTIONS 20-5-321, 20-5-324, 20-9-212, AND 20-9-334, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-321, MCA, is amended to read:

"20-5-321. Attendance with mandatory approval -- tuition and transportation. (1) An out-of-district attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:

(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district and;

~~(i) the resident district does not provide transportation; or~~

~~(ii) the district of residence provides transportation and is not within the same county as the child's school district of choice;~~

(b) the child resides in a location where, ~~due to~~ because of road or geographic conditions, it is impractical to attend the school nearest the child's residence;

(c) the child is a member of a family that is required to send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided that the child resides more than 3 miles from an elementary school in the resident district or that the parent is required to move to the elementary district where the high school is located to enroll another child in high school;

1 (d) the child has been adjudicated by a court of competent jurisdiction to be an abused or neglected
2 child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in
3 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public
4 health and human services and, as a result of the placement, is required to attend school outside of the
5 child's district of residence; or

6 (e) the child is required to attend school outside of the district of residence as the result of a
7 placement by a state agency or parent in a group home licensed by the state or an order of a court of
8 competent jurisdiction.

9 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have
10 a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall
11 complete an out-of-district attendance agreement in consultation with an appropriate official of the district
12 that the child will attend.

13 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for
14 tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

15 (c) The trustees of the district of choice may waive any ~~or all~~ of the tuition rate, but any waiver
16 must be applied equally to all students.

17 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of
18 the district of choice shall approve the out-of-district attendance agreement and notify the county
19 superintendent of schools of the county of the child's residence of the approval of the agreement within
20 10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).

21 (4) Unless the child is a child with disabilities who resides in the district, the trustees of the district
22 where the school to be attended is located may disapprove an out-of-district attendance agreement
23 whenever they find that, ~~due to~~ because of insufficient room and overcrowding, the accreditation of the
24 school would be adversely affected by the acceptance of the child."
25

26 **Section 2.** Section 20-5-324, MCA, is amended to read:

27 **"20-5-324. Tuition report and payment provisions.** (1) At the close of the school term of each
28 school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

29 (a) the name and district of residence of each child who is attending a school of the district under
30 an approved mandatory out-of-district attendance agreement;

1 (b) the number of days of enrollment for each child reported under the provisions of subsection
2 (1)(a);

3 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
4 20-5-323, and the tuition cost for each reported child; and

5 (d) the names, districts of attendance, and amount of tuition to be paid by the district for resident
6 students attending public schools out of state.

7 (2) The county superintendent shall send, as soon as practicable, the reported information to the
8 county superintendent of the county in which a reported child resides.

9 (3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to
10 the superintendent of public instruction, who shall determine the total per-ANB entitlement for which the
11 district would be eligible if the student were enrolled in the resident district. The reimbursement amount
12 is the difference between the actual amount paid and the amount calculated in this subsection.

13 (4) Notwithstanding the requirements of subsection (5), tuition payment provisions for
14 out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7,
15 part 4.

16 (5) ~~Except as provided in subsection (6), when~~ EXCEPT AS PROVIDED IN SUBSECTION (6),
17 WHEN a child has approval to attend a school outside the child's district of residence under the provisions
18 of ~~20-5-320 or 20-5-321~~, the district of residence shall finance the tuition amount from the district tuition
19 fund and any transportation amount from the transportation fund.

20 ~~(6) When a child has mandatory approval under the provisions of 20-5-321, the tuition and~~
21 ~~transportation obligation for an elementary school child attending a school outside of the child's county of~~
22 ~~residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for~~
23 ~~the child's county of residence or for a high school child attending a school outside the county of residence~~
24 ~~by the county basic tax for high school districts, as provided in 20-9-333, for the child's county of~~
25 ~~residence.~~

26 (6) WHEN A CHILD HAS MANDATORY APPROVAL UNDER THE PROVISIONS OF 20-5-321(1)(B),
27 (1)(D) AND, OR (1)(E), THE TUITION AND TRANSPORTATION OBLIGATION FOR AN ELEMENTARY
28 SCHOOL CHILD ATTENDING A SCHOOL OUTSIDE OF THE CHILD'S DISTRICT OF RESIDENCE MUST BE
29 FINANCED FROM THE ELEMENTARY COUNTY EQUALIZATION ACCOUNT, AS PROVIDED IN 20-9-331,
30 FOR THE CHILD'S COUNTY OF RESIDENCE OR FOR A HIGH SCHOOL CHILD ATTENDING A SCHOOL

1 OUTSIDE THE DISTRICT OF RESIDENCE FROM THE HIGH SCHOOL EQUALIZATION ACCOUNT, AS
 2 PROVIDED IN 20-9-333, FOR THE CHILD'S COUNTY OF RESIDENCE.

3 ~~(7)(6)(7)~~ By December 31 of the school fiscal year, ~~the county superintendent or~~ THE COUNTY
 4 SUPERINTENDENT OR the trustees shall pay at least one-half of any tuition and transportation obligation
 5 established under this section out of the money realized to date from the ~~appropriate basic county tax~~
 6 ~~account provided for in 20-9-334 or from the~~ APPROPRIATE ELEMENTARY OR HIGH SCHOOL COUNTY
 7 EQUALIZATION ACCOUNT OR FROM THE district tuition or transportation fund. The remaining tuition and
 8 transportation obligation must be paid by June 15 of the school fiscal year. The payments must be made
 9 to the county treasurer in each county with a school district that is entitled to tuition and transportation.
 10 Except as provided in subsection ~~(9) (8) (9)~~, the county treasurer shall credit tuition receipts to the general
 11 fund of a school district entitled to a tuition payment. The tuition receipts must be used in accordance with
 12 the provisions of 20-9-141. The county treasurer shall credit transportation receipts to the transportation
 13 fund of a school district entitled to a transportation payment.

14 ~~(8)(7)(8)~~ The superintendent of public instruction shall reimburse the district of residence for the
 15 per-ANB entitlement determined in subsection (3).

16 ~~(9)(9)(9)~~ (a) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or
 17 20-5-323(3) for the current school fiscal year that exceed the tuition receipts of the prior year may be
 18 deposited in the district miscellaneous programs fund and must be used for that year in the manner
 19 provided for in 20-9-507 to support the costs of the program for which the tuition was received.

20 (b) Any other tuition receipts received for the current school fiscal year that exceed the tuition
 21 receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used
 22 for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must
 23 be credited to the district general fund budget."
 24

25 **Section 3.** Section 20-9-212, MCA, is amended to read:

26 "**20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

27 (1) receive and hold all school money subject to apportionment and keep a separate accounting
 28 of its apportionment to the several districts that are entitled to a portion of the money according to the
 29 apportionments ordered by the county superintendent or by the superintendent of public instruction. A
 30 separate accounting must be maintained for each county fund supported by a countywide levy for a

1 specific, authorized purpose, including:

2 (a) the basic county tax in support of the elementary BASE aid;

3 (b) the basic special tax for high schools in support of the high school BASE aid;

4 (c) the county tax in support of the transportation schedules;

5 (d) the county tax in support of the elementary and high school district retirement obligations; and

6 (e) any other county tax for schools, including the community colleges, that may be authorized by
7 law and levied by the county commissioners.

8 (2) whenever requested, notify the county superintendent and the superintendent of public
9 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection
10 (1) and the amount of any other school money subject to apportionment and apportion the county and other
11 school money to the districts in accordance with the apportionment ordered by the county superintendent
12 or the superintendent of public instruction;

13 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

14 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
15 school money;

16 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
17 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
18 school taxes must be credited to the same fund and district for which the original taxes were levied.

19 (6) send all revenue received for a joint district, part of which is situated in the county, to the
20 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
21 every 3 months after that date until the end of the school fiscal year;

22 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
23 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

24 (8) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
25 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of
26 registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

27 (9) invest the money of any district as directed by the trustees of the district within 3 working days
28 of the direction;

29 (10) each month give to the trustees of each district an itemized report for each fund maintained
30 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types

1 of revenue received, and the cash balance;

2 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
3 program within a unit of the university system when levied by the board of county commissioners under
4 the provisions of 20-25-439;

5 (12) invest the money received from the basic county tax, the basic special tax, the county levy
6 in support of the elementary and high school district retirement obligations, and the county levy in support
7 of the transportation schedules within 3 working days of receipt. The money must be invested until the
8 working day before it is required to be distributed to school districts within the county or remitted to the
9 state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and
10 credited proportionately, in the funds established to account for the taxes received for the purposes
11 specified in subsections (1)(a) through (1)(d).

12 (13) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504,
13 all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all
14 interest earned ~~and excluding any amount required for high school out of county tuition under the~~
15 ~~provisions of 20-9-334~~ AND EXCLUDING ANY AMOUNT FOR TUITION UNDER THE PROVISIONS OF
16 20-5-324(6), in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds
17 in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."
18

19 **Section 4.** Section 20-9-334, MCA, is amended to read:

20 **"20-9-334. Apportionment of county equalization moneys — high school out of county tuition**
21 **obligations money -- TUITION OBLIGATIONS.** ~~{}~~ (1) The county superintendent shall calculate the
22 apportionment of ~~revenues~~ revenue deposited in the basic county tax account and the ~~revenues~~ revenue
23 deposited in the basic special tax for high schools account to the several districts of the county. The
24 apportionments ~~shall be~~ are known as "county equalization ~~moneys~~" money".

25 ~~(2) The county superintendent shall direct the county treasurer to deduct from the revenues~~
26 ~~available in the basic special tax for high schools account, prior to remittance of the funds to the state~~
27 ~~treasurer under the provisions of 15-1-504 and 20-9-212, the amount required for the month to pay the~~
28 ~~county's obligation for high school out of county tuition.~~

29 (2) THE COUNTY SUPERINTENDENT SHALL DIRECT THE COUNTY TREASURER TO DEDUCT FROM
30 THE REVENUE AVAILABLE IN THE APPROPRIATE ELEMENTARY AND HIGH SCHOOL EQUALIZATION

1 ACCOUNTS, PRIOR TO THE REMITTANCE OF THE FUNDS TO THE STATE TREASURER UNDER THE
2 PROVISIONS OF 15-1-504 AND 20-9-212, THE AMOUNT REQUIRED FOR THE MONTH TO PAY THE
3 COUNTY'S OBLIGATION FOR TUITION UNDER THE PROVISIONS OF 20-5-324(6)."

4
5 ~~NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 70 is passed and approved~~
6 ~~and if it includes a section that amends 20-9-334(1), then 20-9-334 is repealed.~~

7
8 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective on passage and
9 approval and applies to ~~budgets~~ TUITION COSTS INCURRED for school fiscal years beginning on or after
10 July 1, ~~1997~~ 2001.

11 -END-

1 HOUSE BILL NO. 542

2 INTRODUCED BY PECK

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE OUT-OF-COUNTY TUITION LAWS;
 5 ELIMINATING MANDATORY TUITION APPROVAL AND THE DEDUCTION OF OUT-OF-COUNTY TUITION
 6 FROM THE COUNTY EQUALIZATION ACCOUNT IF THE RESIDENT DISTRICT PROVIDES
 7 TRANSPORTATION BUT IS NOT IN THE SAME COUNTY AS THE DISTRICT OF CHOICE; ~~ELIMINATING THE~~
 8 ~~DEDUCTION OF OUT OF COUNTY TUITION FROM THE COUNTY EQUALIZATION ACCOUNT~~; AMENDING
 9 SECTIONS 20-5-321, 20-5-324, 20-9-212, AND 20-9-334, MCA; AND PROVIDING AN IMMEDIATE
 10 EFFECTIVE DATE AND AN APPLICABILITY DATE."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 **Section 1.** Section 20-5-321, MCA, is amended to read:

15 **"20-5-321. Attendance with mandatory approval -- tuition and transportation.** (1) An out-of-district
 16 attendance agreement that allows a child to enroll in and attend a school in a Montana school district that
 17 is outside of the child's district of residence or in a public school district of a state or province that is
 18 adjacent to the county of the child's residence is mandatory whenever:

19 (a) the child resides closer to the school that the child wishes to attend and more than 3 miles from
 20 the school the child would attend in the resident district and:

21 (i) the resident district does not provide transportation; ~~or~~

22 (ii) ~~the district of residence provides transportation and is not within the same county as the child's~~
 23 ~~school district of choice;~~

24 (b) the child resides in a location where, ~~due to~~ because of road or geographic conditions, it is
 25 impractical to attend the school nearest the child's residence;

26 (c) the child is a member of a family that is required to send another child outside of the elementary
 27 district to attend high school and the child of elementary age may more conveniently attend an elementary
 28 school where the high school is located, provided that the child resides more than 3 miles from an
 29 elementary school in the resident district or that the parent is required to move to the elementary district
 30 where the high school is located to enroll another child in high school;

1 (d) the child has been adjudicated by a court of competent jurisdiction to be an abused or neglected
2 child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in
3 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of public
4 health and human services and, as a result of the placement, is required to attend school outside of the
5 child's district of residence; or

6 (e) the child is required to attend school outside of the district of residence as the result of a
7 placement by a state agency or parent in a group home licensed by the state or an order of a court of
8 competent jurisdiction.

9 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have
10 a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall
11 complete an out-of-district attendance agreement in consultation with an appropriate official of the district
12 that the child will attend.

13 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for
14 tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

15 (c) The trustees of the district of choice may waive any ~~or all~~ of the tuition rate, but any waiver
16 must be applied equally to all students.

17 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of
18 the district of choice shall approve the out-of-district attendance agreement and notify the county
19 superintendent of schools of the county of the child's residence of the approval of the agreement within
20 10 days. The county superintendent shall approve the agreement for payment under 20-5-324(5).

21 (4) Unless the child is a child with disabilities who resides in the district, the trustees of the district
22 where the school to be attended is located may disapprove an out-of-district attendance agreement
23 whenever they find that, ~~due to~~ because of insufficient room and overcrowding, the accreditation of the
24 school would be adversely affected by the acceptance of the child."
25

26 **Section 2.** Section 20-5-324, MCA, is amended to read:

27 **"20-5-324. Tuition report and payment provisions.** (1) At the close of the school term of each
28 school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

29 (a) the name and district of residence of each child who is attending a school of the district under
30 an approved mandatory out-of-district attendance agreement;

1 (b) the number of days of enrollment for each child reported under the provisions of subsection
2 (1)(a);

3 (c) the annual tuition rate for each child’s tuition payment, as determined under the provisions of
4 20-5-323, and the tuition cost for each reported child; and

5 (d) the names, districts of attendance, and amount of tuition to be paid by the district for resident
6 students attending public schools out of state.

7 (2) The county superintendent shall send, as soon as practicable, the reported information to the
8 county superintendent of the county in which a reported child resides.

9 (3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to
10 the superintendent of public instruction, who shall determine the total per-ANB entitlement for which the
11 district would be eligible if the student were enrolled in the resident district. The reimbursement amount
12 is the difference between the actual amount paid and the amount calculated in this subsection.

13 (4) Notwithstanding the requirements of subsection (5), tuition payment provisions for
14 out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7,
15 part 4.

16 (5) ~~Except as provided in subsection (6), when~~ EXCEPT AS PROVIDED IN SUBSECTION (6),
17 WHEN a child has approval to attend a school outside the child’s district of residence under the provisions
18 of ~~20-5-320 or 20-5-321~~, the district of residence shall finance the tuition amount from the district tuition
19 fund and any transportation amount from the transportation fund.

20 ~~(6) When a child has mandatory approval under the provisions of 20-5-321, the tuition and~~
21 ~~transportation obligation for an elementary school child attending a school outside of the child’s county of~~
22 ~~residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for~~
23 ~~the child’s county of residence or for a high school child attending a school outside the county of residence~~
24 ~~by the county basic tax for high school districts, as provided in 20-9-333, for the child’s county of~~
25 ~~residence.~~

26 (6) WHEN A CHILD HAS MANDATORY APPROVAL UNDER THE PROVISIONS OF 20-5-321(1)(B),
27 (1)(D) AND, OR (1)(E), THE TUITION AND TRANSPORTATION OBLIGATION FOR AN ELEMENTARY
28 SCHOOL CHILD ATTENDING A SCHOOL OUTSIDE OF THE CHILD’S DISTRICT OF RESIDENCE MUST BE
29 FINANCED FROM THE ELEMENTARY COUNTY EQUALIZATION ACCOUNT, AS PROVIDED IN 20-9-331,
30 FOR THE CHILD’S COUNTY OF RESIDENCE OR FOR A HIGH SCHOOL CHILD ATTENDING A SCHOOL

1 OUTSIDE THE DISTRICT OF RESIDENCE FROM THE HIGH SCHOOL EQUALIZATION ACCOUNT, AS
 2 PROVIDED IN 20-9-333, FOR THE CHILD'S COUNTY OF RESIDENCE.

3 ~~(7)(6)(7)~~ By December 31 of the school fiscal year, ~~the county superintendent or~~ THE COUNTY
 4 SUPERINTENDENT OR the trustees shall pay at least one-half of any tuition and transportation obligation
 5 established under this section out of the money realized to date from the ~~appropriate basic county tax~~
 6 ~~account provided for in 20-9-334 or from the~~ APPROPRIATE ELEMENTARY OR HIGH SCHOOL COUNTY
 7 EQUALIZATION ACCOUNT OR FROM THE district tuition or transportation fund. The remaining tuition and
 8 transportation obligation must be paid by June 15 of the school fiscal year. The payments must be made
 9 to the county treasurer in each county with a school district that is entitled to tuition and transportation.
 10 Except as provided in subsection ~~(9) (8) (9)~~, the county treasurer shall credit tuition receipts to the general
 11 fund of a school district entitled to a tuition payment. The tuition receipts must be used in accordance with
 12 the provisions of 20-9-141. The county treasurer shall credit transportation receipts to the transportation
 13 fund of a school district entitled to a transportation payment.

14 ~~(9)(7)(8)~~ The superintendent of public instruction shall reimburse the district of residence for the
 15 per-ANB entitlement determined in subsection (3).

16 ~~(9)(8)(9)~~ (a) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or
 17 20-5-323(3) for the current school fiscal year that exceed the tuition receipts of the prior year may be
 18 deposited in the district miscellaneous programs fund and must be used for that year in the manner
 19 provided for in 20-9-507 to support the costs of the program for which the tuition was received.

20 (b) Any other tuition receipts received for the current school fiscal year that exceed the tuition
 21 receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used
 22 for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must
 23 be credited to the district general fund budget."
 24

25 **Section 3.** Section 20-9-212, MCA, is amended to read:

26 **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

27 (1) receive and hold all school money subject to apportionment and keep a separate accounting
 28 of its apportionment to the several districts that are entitled to a portion of the money according to the
 29 apportionments ordered by the county superintendent or by the superintendent of public instruction. A
 30 separate accounting must be maintained for each county fund supported by a countywide levy for a

- 1 specific, authorized purpose, including:
- 2 (a) the basic county tax in support of the elementary BASE aid;
- 3 (b) the basic special tax for high schools in support of the high school BASE aid;
- 4 (c) the county tax in support of the transportation schedules;
- 5 (d) the county tax in support of the elementary and high school district retirement obligations; and
- 6 (e) any other county tax for schools, including the community colleges, that may be authorized by
- 7 law and levied by the county commissioners.
- 8 (2) whenever requested, notify the county superintendent and the superintendent of public
- 9 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection
- 10 (1) and the amount of any other school money subject to apportionment and apportion the county and other
- 11 school money to the districts in accordance with the apportionment ordered by the county superintendent
- 12 or the superintendent of public instruction;
- 13 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;
- 14 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
- 15 school money;
- 16 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
- 17 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
- 18 school taxes must be credited to the same fund and district for which the original taxes were levied.
- 19 (6) send all revenue received for a joint district, part of which is situated in the county, to the
- 20 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
- 21 every 3 months after that date until the end of the school fiscal year;
- 22 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
- 23 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;
- 24 (8) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
- 25 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of
- 26 registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.
- 27 (9) invest the money of any district as directed by the trustees of the district within 3 working days
- 28 of the direction;
- 29 (10) each month give to the trustees of each district an itemized report for each fund maintained
- 30 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types

1 of revenue received, and the cash balance;

2 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
3 program within a unit of the university system when levied by the board of county commissioners under
4 the provisions of 20-25-439;

5 (12) invest the money received from the basic county tax, the basic special tax, the county levy
6 in support of the elementary and high school district retirement obligations, and the county levy in support
7 of the transportation schedules within 3 working days of receipt. The money must be invested until the
8 working day before it is required to be distributed to school districts within the county or remitted to the
9 state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and
10 credited proportionately, in the funds established to account for the taxes received for the purposes
11 specified in subsections (1)(a) through (1)(d).

12 (13) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504,
13 all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all
14 interest earned ~~and excluding any amount required for high school out of county tuition under the~~
15 ~~provisions of 20-9-334~~ AND EXCLUDING ANY AMOUNT FOR TUITION UNDER THE PROVISIONS OF
16 20-5-324(6), in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds
17 in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."
18

19 **Section 4.** Section 20-9-334, MCA, is amended to read:

20 "**20-9-334. Apportionment of county equalization moneys** ~~high school out of county tuition~~
21 ~~obligations money~~ **-- TUITION OBLIGATIONS.** ~~(1)~~ (1) The county superintendent shall calculate the
22 apportionment of ~~revenues~~ revenue deposited in the basic county tax account and the ~~revenues~~ revenue
23 deposited in the basic special tax for high schools account to the several districts of the county. The
24 apportionments ~~shall be~~ are known as "county equalization ~~moneys~~" money".

25 ~~(2) The county superintendent shall direct the county treasurer to deduct from the revenues~~
26 ~~available in the basic special tax for high schools account, prior to remittance of the funds to the state~~
27 ~~treasurer under the provisions of 15-1-504 and 20-9-212, the amount required for the month to pay the~~
28 ~~county's obligation for high school out of county tuition.~~

29 (2) THE COUNTY SUPERINTENDENT SHALL DIRECT THE COUNTY TREASURER TO DEDUCT FROM
30 THE REVENUE AVAILABLE IN THE APPROPRIATE ELEMENTARY AND HIGH SCHOOL EQUALIZATION

1 ACCOUNTS, PRIOR TO THE REMITTANCE OF THE FUNDS TO THE STATE TREASURER UNDER THE
2 PROVISIONS OF 15-1-504 AND 20-9-212, THE AMOUNT REQUIRED FOR THE MONTH TO PAY THE
3 COUNTY'S OBLIGATION FOR TUITION UNDER THE PROVISIONS OF 20-5-324(6)."

4
5 ~~NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 70 is passed and approved~~
6 ~~and if it includes a section that amends 20-9-334(1), then 20-9-334 is repealed.~~

7
8 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective on passage and
9 approval and applies to ~~budgets~~ TUITION COSTS INCURRED for school fiscal years beginning on or after
10 July 1, ~~1997~~ 2001.

11 -END-